

PROSKAUER ROSE LLP
Howard L. Ganz (HG-8644)
Evandro C. Gigante (EG-7402)
1585 Broadway
New York, NY 10036-8299
Telephone 212.969.3000
Fax 212.969.2900
Email: hganz@proskauer.com
egigante@proskauer.com
Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

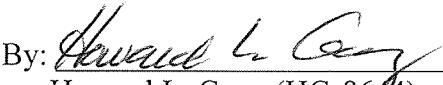
----- X
ANNETTE SMITH, :
Plaintiff, : 08 Civ. 7888 (WHP)(RLE)
against :
NATIONAL BASKETBALL ASSOCIATION, :
INC., and BERNARD TOLBERT, : **ECF CASE**
Defendants. :
----- X

PLEASE TAKE NOTICE that, upon the annexed declaration of Howard L. Ganz, Esq., and the exhibits attached thereto, the Memorandum of Law In Support of Defendants' Motion for Summary Judgment, Defendants' Statement of Material Undisputed Facts Pursuant to Local Rule 56.1, and all prior proceedings in this action, Defendants National Basketball Association (incorrectly identified as "National Basketball Association, Inc.") and Bernard Tolbert (collectively "Defendants") will move this Court, before the Honorable William H. Pauley III, at the United States District Court House, 500 Pearl Street, New York, NY 10007, on September 25, 2009 for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure (i) dismissing Plaintiff's Complaint in its entirety on the grounds that there is no genuine issue as to any

material fact and that Defendants are entitled to judgment as a matter of law; and (ii) awarding Defendants such other relief as the Court may deem just and proper.

Dated: July 29, 2009
New York, New York

PROSKAUER ROSE LLP

By: 
Howard L. Ganz (HG-8644)
Evandro C. Gigante (EG-7402)
1585 Broadway
New York, NY 10036-8299
Telephone: 212.969.3000
Fax: 212.969.2900
E-mail: hganz@proskauer.com
egigante@proskauer.com
Attorneys For Defendants

TO: AKIN & SMITH, LLC
Derek T. Smith, Esq.
305 Broadway - Suite 1101
New York, New York 10007
Telephone: 212.587.0760
Fax: 212.587.4169
E-mail: dtlaws@msn.com
Attorney for Plaintiff